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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,186

02/25/2004

Hugh S. West JR.

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12/02/2008

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

GEORGE, TARA R

ART UNIT

PAPER NUMBER

3733

MAIL DATE

DELIVERY MODE

12/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/786,186	Applicant(s) WEST ET AL.	
	Examiner TARA R. GEORGE	Art Unit 3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-40 is/are rejected.
- 7) ☐ Claim(s) 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 4950271) in view of Fallin (US 2004/0254593).

With respect to claim 29, Lewis teaches a suture separation and organization device for use in organizing and separating tensioned suture strands in a desired spaced-apart orientation during joint repair surgery, comprising: a body (42) having a first surface that is oriented toward a graft tensioning device when in use and second surface that is oriented toward a bone tunnel in a patient's leg when in use, the body having a center and a perimeter (e.g. fig. 2); a plurality of attachment passages or recesses in said body (note this is where 50 attaches to 51A and 51 C), each being sized and positioned so as to at least partially receive therein a corresponding post (50) of a graft tensioning device, each of said attachment passages or recesses being defined by a respective hollow post guide projecting from said second surface of said body so as to maintain space between a patient's leg and said second surface of said body when said suture separation and organization device is in use (e.g. fig. 2); and a passageway or recess passing through the center of said body through which an interference screw can be inserted between tensioned suture strands during joint repair

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surgery (e.g. fig. 2). Lewis teaches the claimed invention except for a first plurality of suture retention recesses or protrusions disposed on an upper perimeter of said body and a second plurality of retention recesses or protrusions disposed on a lower perimeter of said body, said first and second pluralities of suture retention recesses or protrusions being adapted to retain a plurality of tensioned suture strands or groups of tensioned suture strands extending away from a bone tunnel in a desired spaced-apart relationship on either side of the bone tunnel in order to facilitate insertion of an interference screw between the tensioned suture strands. Fallin teaches a device used to organize sutures with line retention recesses or protrusions disposed on an upper and lower perimeter (e.g. at 140, 140' and 122 and 122'- fig. 9) in order to maintain the desired tension. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pulley assemblies 57 of Lewis in view of Fallin in order to better organize the sutures while maintaining the desired tension.

As for claim 30, Lewis further teaches a suture separation and organization device as defined in claim 29, said first surface of said body being substantially flat (fig. 2).

As for claim 31, Lewis further teaches a suture separation and organization device as defined in claim 29, wherein each respective hollow post guide projects orthogonally from said second surface of said body (fig. 2).

As for claim 32, Fallin further teaches a suture separation and organization device as defined in claim 29, wherein the device includes four suture retention

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recesses or protrusions being positioned so as to separate and organize four suture strands or groups of suture strands into four spaced-apart quadrants (e.g. fig. 9).

As for claim 33, Lewis further teaches a tensioning system for use in joint repair surgery, comprising: a suture separation and organization device according to claim 29; and a graft tensioning device (50) configured so as to apply a desired tensile load to one or more soft tissue grafts emerging from a bone tunnel in a patient's limb and attached to a plurality of suture strands that extend away from the bone tunnel (abstract, fig. 2).

As for claim 34, Lewis further teaches a tensioning system for use in joint repair surgery according to claim 32, said graft tensioning device having adjustable tensioning means for selectively varying a tensile load applied to a plurality of suture strands attached to a soft tissue graft positioned within a bone tunnel and that extend away from the bone tunnel (abstract).

With respect to claim 35, Lewis further teaches a tensioning system for applying variable tension to a plurality of suture strands (30) attached to a soft tissue graft positioned within a bone tunnel and for organizing the suture strands preparatory to fastening the soft tissue graft within the bone tunnel, the tensioning system comprising: a graft tensioning device (50) having adjustable tensioning means for selectively varying a tensile load applied to a plurality of suture strands attached to a soft tissue graft positioned within a bone tunnel and that extend away from the bone tunnel; and a suture separation and organization device (40) comprising: body means (42) for

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providing a structure for the suture separation and organization device (where 50 attaches to 51A and 51C); attachment means for removably attaching said body means to said graft tensioning device (where 50 attaches to 51A and 51C); and a passageway or recess in said body means through which an interference screw can be inserted (note where 30 extends through 40). Lewis teaches the claimed invention except for a first plurality of suture retention recesses or protrusions disposed on an upper perimeter of said body and a second plurality of retention recesses or protrusions disposed on a lower perimeter of said body, said first and second pluralities of suture retention recesses or protrusions being adapted to retain a plurality of tensioned suture strands or groups of tensioned suture strands extending away from a bone tunnel in a desired spaced-apart relationship on either side of the bone tunnel in order to facilitate insertion of an interference screw between the tensioned suture strands. Fallin teaches a device used to organize sutures with line retention recesses or protrusions disposed on an upper and lower perimeter (e.g. at 140, 140' and 122 and 122'- fig. 9) in order to maintain the desired tension. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pulley assemblies 57 of Lewis in view of Fallin in order to better organize the sutures while maintaining the desired tension.

Note that claims 36-40 have been taught above.

Allowable Subject Matter

Claim 41 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 29-41 have been considered but are moot in view of the new ground(s) of rejection, as claims 29-41 are all newly presented.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARA R. GEORGE whose telephone number is (571)272-3402. The examiner can normally be reached on M-F from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. R. G./
Examiner, Art Unit 3733

/Eduardo C. Robert/

Supervisory Patent Examiner, Art Unit 3733